

January 2002

CHARITABLE CHOICE

Overview of Research Findings on Implementation



G A O

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United States General Accounting Office
Washington, DC 20548

January 18, 2002

The Honorable Joseph I. Lieberman
Chairman
Committee on Governmental Affairs
United States Senate

The Honorable Elijah E. Cummings
Ranking Minority Member
Subcommittee on Criminal Justice,
Drug Policy, and Human Resources
Committee on Government Reform
House of Representatives

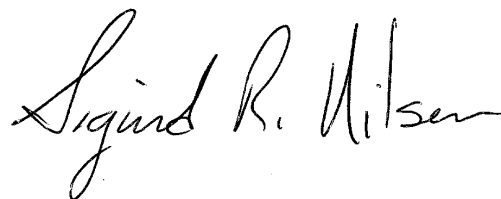
This report addresses your request for an overview of research findings on the implementation of charitable choice provisions in current law. Charitable choice provisions require states and localities to allow religious organizations to compete for federal funding on the same basis as other social service providers, without impairing the religious character of such organizations. These provisions apply to several programs, including the Temporary Assistance for Needy Families program, the Community Services Block Grant program, and substance abuse treatment and prevention programs under amendments to the Public Health Services Act in 2000.

The Congress has been considering legislation to expand charitable choice provisions to other specific government programs. To provide you with information to consider during this debate, you asked that we review the available literature to determine (1) the extent to which and how states have responded to charitable choice provisions in current law; (2) the factors that have limited the collaboration between states and faith-based organizations (FBOs); (3) the issues that have been encountered once collaboration has occurred; and (4) how FBOs performed as compared to secular providers of social services.

To address your request, we reviewed the existing research on charitable choice provisions and interviewed several experts in the field. We conducted our work from June through July 2001 in accordance with generally accepted government auditing standards. We briefed your staff on the results of our work on July 27 and August 28, 2001. This report formally conveys the documents used at those briefings.

In summary, while the literature does not provide a national picture of the extent to which states have responded to charitable choice provisions, it provides some useful information. At least 19 states have contracted with FBOs to provide some welfare-related services. Moreover, states are using a variety of approaches to implement charitable choice legislation. For example, some states have created state faith-based liaisons to promote greater awareness of charitable choice provisions or changed state procurement requirements to remove barriers to contracting with FBOs. Several factors have limited the establishment of collaborations between FBOs and states, including some FBOs' lack of awareness and understanding of charitable choice provisions, their reluctance to partner with government, and the limited financial and administrative capacity of some FBOs. Once collaborations have occurred, some small FBOs have encountered difficulties in covering ongoing costs while awaiting government reimbursement or difficulties managing the performance-based contracts, due to limited technological and management systems. Finally, the literature we reviewed provides no information with which to assess the effectiveness of FBOs as providers of social services. While some anecdotal evidence attributes success to FBOs, the effectiveness of FBOs as social service providers has not been rigorously examined by the research community.

We are sending copies of this report to relevant congressional committees, the Office of Faith-Based and Community Initiatives in the White House, and the Centers for Faith-Based and Community Initiatives in the Departments of Education, Health and Human Services, Housing and Urban Development, Justice, and Labor. We will make copies available to others upon request. If you or your staff have any questions about this report, please contact me on (202) 512-7215 or Andrew Sherrill on (202) 512-7252.

A handwritten signature in black ink, reading "Sigurd R. Nilsen". The signature is written in a cursive, flowing style.

Sigurd R. Nilsen
Director, Education, Workforce,
and Income Security Issues

Charitable Choice: What Does The Literature Tell Us About Implementation?

Briefing for Congressional Staff of

Senator Lieberman,
Chairman,
Senate Committee on Governmental Affairs

July 27, 2001

Charitable Choice: What Does The Literature Tell Us About Implementation?

Briefing for Congressional Staff of

Representative Cummings,
Ranking Member,
Subcommittee on Criminal Justice, Drug Policy,
and Human Resources,
House Committee on Government Reform

August 28, 2001

Outline of Briefing

- Objectives
- Background
- Scope and Methodology
- Findings
- Other Issues
- Relevant Reports

Objectives

Determine what information the available literature provides to answer the following questions:

1. To what extent and how have states responded to charitable choice provisions?
2. What factors have limited the collaboration between states and faith-based organizations (FBOs)?
3. What issues have been encountered once collaboration has occurred?
4. How have FBOs performed as compared to secular providers of social services?

Background

Programs with Charitable Choice Provisions

Charitable Choice provisions require states and localities to allow religious organizations to compete for, or receive, contracts, grants, certificates, vouchers, or other forms of disbursement on the same basis as any other non-governmental provider without impairing the religious character of such organizations and without diminishing the religious freedom of beneficiaries of assistance. The provisions apply to:

- Temporary Assistance for Needy Families (TANF) and Welfare-to-Work grants as well as Supplemental Security Income (SSI), Medicaid, Food Stamps, and child support enforcement under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).
- Community Services Block Grant Program (CSBG), reauthorized in 1998.
- Substance abuse treatment and prevention programs under two separate amendments to the Public Health Services Act in 2000.

Background

Terminology

Although “faith-based organization” is not defined in the law, the term is commonly used in the literature as follows:

- *Faith-based organizations (FBOs) are religious organizations or religiously affiliated not-for-profit entities. FBOs that may provide social services could be classified into two major categories:*
 - **Sectarian** - “Pervasively religious” organizations, such as churches, temples, synagogues, mosques, and congregations.
 - **Non-Sectarian** - Separate, secular organization created by a religious organization to provide social services, such as Jewish Family Services, Catholic Charities USA, Lutheran Social Services, and the Salvation Army.

Background

How Charitable Choice Affects FBOs

FBOs have historically provided help for the needy in partnership with the government through their non-sectarian entities. Now, sectarian FBOs that receive federal funding under charitable choice provisions:

- Are not required to separate their religious nature from their social service activities in order to receive federal funding.
- Are not prohibited from displaying religious symbols.
- Are allowed, in their employment practices, to discriminate on religious grounds.
- Are prohibited from discriminating against beneficiaries in delivery of services.
- Are subject to the same financial audit regulations for federal funds as are other non-governmental organizations.
- Must not use public funds received directly, through contracts and grants, for the purpose of worship, religious instruction, or proselytizing.

Background

How Charitable Choice Affects States and Localities

Charitable choice provisions do not prescribe how states or localities should implement the law, however, these provisions:

- Require states and localities to allow religious organizations to compete for, or receive, federal funding for the provision of social services on the same basis as any other non-governmental provider.
- Provide that if a beneficiary objects to the religious nature of a provider, the state or locality must make available an alternative (non-religious), accessible provider.
- Prohibit states and localities from requiring an FBO to change its form of internal governance or to remove religious art, icons, or symbols.

Scope and Methodology

We limited the scope of our work to programs that have charitable choice provisions:

- To identify relevant reports and publications that have been issued since PRWORA in 1996, we conducted library and internet research and interviewed some study authors and experts in the field.
- We reviewed over 30 reports and publications; of these, 8 provided information directly relevant to our objectives.
- Most of the 8 reports have methodological limitations, preventing us from drawing conclusions about the national experience with charitable choice. However, these reports provide some useful information about aspects of charitable choice.

To what extent have states responded to charitable choice provisions?

There is no national picture of the extent to which states have responded to charitable choice, due to the limited number, scope, and quality of existing reports. However,

- One survey reported that 19 states had contracts with FBOs that were funded by TANF or Welfare-to-Work funds. (Meckler)
- A study of 9 states identified TANF or Welfare-to-Work financial agreements with 45 FBOs that had not previously received federal funding. (Sherman)
- Only 3 percent of a national sample of religious congregations surveyed in 1998 reported receiving government funding to provide social services. (Chaves)

How have states responded to charitable choice provisions?

Some states have taken an active approach in responding to charitable choice provisions. Some state activities identified in one or more of these 8 reports included:

- Creating a central office, appointing liaisons, or hosting educational meetings to promote greater awareness of charitable choice provisions and increase coordination with FBOs.
- Developing demonstration projects to gain experience in working with FBOs.
- Changing state procurement requirements and practices to remove barriers to contracting with FBOs.
- Entering into various types of financial agreements with FBOs, including contracts, grants or vouchers.

What factors have limited the collaboration between states and FBOs?

Some key factors identified in one or more of these 8 reports included:

- Lack of awareness and understanding of charitable choice provisions on the part of some states and FBOs.
- Unwillingness on the part of some FBOs to partner with government due to general mistrust of government, fear of erosion of their mission, or fear of oversight.
- Theological or philosophical beliefs of some FBOs that preclude collaboration with government.
- Difficulty of contracting process for some FBOs that lack experience with the RFP process.

What factors have limited the collaboration between states and FBOs?

(continued)

- Limited administrative capacity of some FBOs to develop accounting systems for administering grants or contracts.
- Limited financial capacity of some FBOs to obtain start-up funds for such projects.
- Limited numbers of staff or volunteers in some FBOs.

What issues have been encountered once collaboration has occurred?

Key issues identified in one or more of these 8 reports included:

- Capacity Issues - Some small FBOs have experienced difficulties in managing performance-based contracts, due to limited technological and management systems. In some cases these issues became less problematic when larger organizations were used as intermediaries.
- Financial issues: Some small FBOs have encountered difficulties in covering their ongoing costs while awaiting government reimbursement on cost-based contracts.
- Coordination Issues: Some FBOs have reported difficulties obtaining client information from, and coordinating activities with, other social service agencies.
- Oversight Issues: Some state officials have expressed concerns about the challenges they face in holding FBOs accountable for their performance.

How have FBOs performed as compared to secular providers of social services?

The literature that we reviewed provides no information on which to assess the effectiveness of FBOs as providers of social services.

Other Issues

Some aspects of charitable choice have generated significant debate. However, there is little or no information in the literature about the extent to which the following aspects have been problematic:

- Exemption of FBOs from prohibition of discrimination based on religion in their hiring practices.
- Requirement that FBOs do not discriminate in the delivery of services.
- Requirement that FBOs do not use federal funds for worship, religious instruction, or proselytizing.
- Requirement that an alternative (non-religious) service provider be made available upon request by a beneficiary.
- State discretion to exempt or partially exempt from state certification or programmatic oversight those FBOs that provide specified services (e.g. childcare, substance abuse treatment, or youth homes).
- State discretion to determine the range of organizations covered by charitable choice provisions.

Relevant Reports

- Anderson, Scott, Orr, John, and Carol Silverman, "The California Religious Community Capacity Study: Technical Report," California Council of Churches, 2000
- Bartkowski, John P., and Regis, Helen A. "Charitable Choice and the Feasibility of Faith-Based Welfare Reform in Mississippi," Working Paper, Joint Center for Poverty Research, 1999
- Center for Public Justice, "Charitable Choice Compliance: A National Report Card," 2000
- Chaves, Mark, "Congregations and Social Services: What They Do, How They Do It, and With Whom," University of Arizona, 2000
- Cnaan, Ram, and Boddie, Stephanie. "Philadelphia Census of Congregations and Their Involvement in Social Service Delivery," University of Pennsylvania, 2001
- Meckler, Laura, "Most States Pass on Charitable Choice," Associated Press, 2001
- Reingold, David A., Pirog, Maureen, and Brady, David. "Empirical Evidence on Welfare Reform & Faith Based Organizations," Indiana University, 2000
- Sherman, Amy, "The Growing Impact of Charitable Choice: A Catalogue of New Collaborations Between Government and Faith-Based Organizations in Nine States," Hudson Institute, 2000

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